



## **Consolidated Appropriations Act 2021**

### **Delaware Application/Spending Plan**

**September 27, 2021**

#### **Applicant Name (Sub-Award)**

Delaware Department of Natural Resources and Environmental Control, Division of Fish and Wildlife (DNREC).

#### **Introduction**

The Consolidated Appropriations Act 2021 (CAPA) authorized the U.S. Secretary of Commerce to provide \$255 million for economic assistance to affected fishery participants nationwide due to the coronavirus (COVID-19) pandemic. On March 29, 2021, the Secretary of Commerce announced the allocation of \$255 million to states and territories with coastal and marine fishery participants (NOAA Fisheries 2021). Funds for the Atlantic coastal states are awarded to the Atlantic States Marine Fisheries Commission (ASMFC), which will provide sub-awards to the Atlantic coastal states after National Oceanic and Atmospheric Administration (NOAA) Fisheries approval of respective state spending plans. Delaware was notified of eligibility to receive \$2,959,612<sup>1</sup> on April 21, 2021. The methodology in the following Detailed Spending Plan, once reviewed and approved by NOAA, may be used for any future funds appropriated by Congress for the same purpose.

Eligible fishery participants include fishery-related businesses that have incurred, as a direct or indirect result of the COVID-19 pandemic, economic revenue losses greater than 35 percent as compared to the prior five-year average revenue (2015-2019) or, for businesses in operation for less than the specified five years, the number of years that a business operated through 2019. Eligibility is restricted to businesses that operated for at least one full year during 2015 through 2019. Eligible fishery-related businesses under this plan are Delaware residents and non-residents of states that did not receive CARES Act Section 12005 assistance, were not 'made whole' by the CARES Act Section 12005 assistance they received, and have a Delaware business license, commercial fishing license, or aquaculture lease operating in Delaware within the following fishing business sectors: commercial fishermen, seafood processors and dealers, for-hire fishing, bait and tackle shops, and privately-owned marine aquaculture growing products in Delaware or federal marine waters of the United States (i.e., shellfish leases, hatcheries, nurseries) (ASMFC 2021). An applicant cannot be made 'more than whole' when combining the amount of financial assistance received from CARES Act Section 12005, other programs in the CARES Act (e.g., Payment Protection Program), and an applicant's traditional revenue stream for the year 2020. There are neither Federally recognized tribes nor non-Tribal subsistence fisheries in Delaware.

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<sup>1</sup> State allocation has been adjusted to account for administration fees as allowed under the CAPA. NOAA Fisheries' administrative fees (1.1%) and the ASFMC's administrative fees of (0.25%). These fees will be used to reimburse expenses for the allocation and distribution of the funding.

Delaware commercial fishing, marine aquaculture, recreational for-hire, bait and tackle shops, and seafood processor and dealer businesses were impacted by the COVID-19 pandemic. As Delaware and other states closed restaurants, casinos, and other venues that buy more than half of the fresh seafood harvested locally, the demand for seafood dropped dramatically across the supply chain. This reduction or elimination immediately affected commercial fishermen, aquaculture operations, and seafood processors and dealers. Value of the harvested product decreased, and some products were not able to be sold and distributed to a market. Some product had to be destroyed due to the lack of storage capacity. Some commercial seafood harvesters were able to find new markets and markets slowly revived as COVID-19 restrictions eased, but the value of the product was still low compared to previous years, causing financial hardships for these businesses.

Recreational for-hire (charter and head boat) fishing businesses and bait and tackle shops also suffered substantial revenue losses. These were among the businesses initially closed by the Governor's COVID-19 Emergency Order and for-hire fishing businesses were not allowed to operate until May 29, 2020. These businesses were then operating at reduced capacity to ensure social distancing of customers and crew for the duration of 2020. Reduced income or job loss in the customer base supporting for-hire fishing and bait and tackle shops have also contributed to the decline in for-hire fishing and bait and tackle shop businesses and have resulted in economic hardships. Bait and tackle shops were added to the recreational for-hire fishing business category eligible for payments due to their recreational fishing focus and partial interdependency with the for-hire fishing sector. Only bait and tackle shops that derive at least 75% of their total revenue from the sale of saltwater bait and tackle and had a greater than 35% loss in saltwater bait and tackle revenue are eligible.

The goal of this spending plan is to provide financial relief through direct payments to eligible fishery-related businesses affected by the COVID-19 pandemic. The affected stakeholder categories used by NOAA Fisheries to determine respective total appropriations to each state, *but not prescribing funding allocations proportions to eligible fishery business sectors*, were commercial fishermen and marine aquaculture businesses, seafood processors and dealers, and recreational for-hire fishing operations (Table 1). On May 22, 2020, NOAA Fisheries published the ratio of each stakeholder group's contribution to funds allocated to Delaware (ASMFC 2021). This ratio was based on NOAA Fisheries' assessment of readily available fishing sector annual revenue information, with marine aquaculture and commercial fishing combined as one sector.

Table 1. Contribution ratio of select Delaware stakeholder categories to Delaware allocation as determined by NOAA Fisheries.

Affected Stakeholder Category	Ratio Contribution <sup>1</sup>	Number of Licensed, Leased, or Permitted Participants or Businesses during in 2020
Commercial Fishermen and Marine Aquaculture Operations <sup>4</sup>	50.3%	127 Delaware Commercial Finfish License Holders <sup>2</sup> 230 Delaware Commercial Shellfish Licensees <sup>2</sup> 13 Delaware Shellfish Aquaculture Lessees <sup>3</sup>

Seafood Dealers and Processors	40.6%	5 Dealers <sup>4</sup> Unknown number of processors; will need to be determined by application.
For-Hire Fishing Operations	9.1%	3 Head Boat licenses <sup>5</sup> 52 Charter Boat licenses <sup>5</sup>

<sup>1</sup>Ratio contribution provided from NOAA Fisheries.

<sup>2</sup>Based on DNREC 2020 license sales and 2019 landings data.

<sup>3</sup>Based on leases issued by DNREC through May 2020.

<sup>4</sup>Includes dealers operating in Delaware and those with federal dealer permits.

<sup>5</sup>Based on 2020 DNREC license sales.

## Approach

DNREC will administer these relief funds as direct payments to Delaware's affected eligible businesses. DNREC will request the funds to be transferred from ASMFC in a lump sum after all necessary documentation supporting funds disbursement to eligible participants is provided to ASMFC. Fund administration includes check writing through the DNREC's fiscal management processes and subsequently sending any required tax information to participants.

\$2,959,612 in CAPA funds will be allocated to Delaware. To maximize direct assistance to stakeholders, DNREC will not collect administrative fees to process applications, distribute funding, or provide required documentation. Direct assistance will be provided to eligible applicants from one of the following three categories: 1) commercial fishermen and marine aquaculture operations 2) seafood processors and dealers, and 3) the for-hire fishing industry and bait and tackle shops based on the sector ratio contributions in Table 1 (Table 2).

Table 2. Initial allocation of funds to Delaware affected stakeholders.

Affected Stakeholder Category	Initial Allocation of Funds
Commercial Fishermen and Marine Aquaculture Operations	\$1,488,685
Seafood Dealers and Processors	\$1,201,602
Recreational For-Hire Fishing Operations and Bait and Tackle Shops	\$269,325
Total	\$2,959,612

## Stakeholder Input

Stakeholder input was not sought for this CAPA spending plan since the plan criteria are similar to the approved CARES Act spending plan that was successfully implemented. The final spending plan, upon approval by NOAA Fisheries, will be posted on DNREC's website and otherwise be made available to the public through a variety of outreach outlets before funding applications are accepted.

## Application for Distribution of Funds

The scope of this project is limited to individuals at least 18 years of age or eligible businesses. The minimum value of relief distributed to each validated application will be \$100 even if a claim is determined to be less than \$100. Note that the demonstrated need may far exceed the funds available for disbursement. It is also recognized that the cumulative demonstrated funding demand and distribution for a certain stakeholder category(ies) may differ from the allocation(s) indicated in Table 2, in which case, should a stakeholder category receive fewer applications than expected or it is anticipated that not all funds will be distributed, funds will be equitably reallocated to the other stakeholder category(ies). DNREC will maintain all supporting documents under this grant for a period of no less than 3 years after the close of the primary grant award to ASMFC for audit purposes. Applicants will only be allowed to apply for funds under one of the following categories and cannot apply for multiple categories:

***Commercial Fishermen and Marine Aquaculture Operations - \$1,488,685***

To qualify for CAPA relief funding, Commercial Fishermen and Aquaculture Operations must meet all the following qualifications:

1. Was a permitted/licensed commercial fisherman or shellfish aquaculture lease holder in Delaware during the COVID-19 impact period defined herein as 1 March through 31 December 2020; and
2. Has maintained a Delaware or federal commercial fishing license and permits or Delaware shellfish aquaculture lease for the five years before 2020 (those holding licenses/permits or leases for less than five years are eligible if their licenses/permits or leases were active for a full year during 2015 through 2019) as evidenced by license records or recorded activity in the monthly wholesale seafood dealer reports with corresponding fishermen, vessels, or dealers;
3. Has suffered an economic loss greater than 35% from the previous 5-year average (2015-2019) or average for the years the applicant held the license/permit or lease in landings revenue value from 1 March through 31 December, 2020 (applicants whose businesses only operated for a portion of the 1 March through 31 December period may also apply); and
4. Provides proof of economic loss to DNREC through a self-certification affidavit. DNREC will verify claims by comparing losses claimed by affidavit with the applicant's previous 5-year average landings revenue value or aquaculture sales value from 2015-2019 or average for the term of the license/permit or lease.

The application process will be open for at least 30 calendar days. Applications received after the published due date will not be reviewed or considered. The process will require applicants to provide supporting materials in the form of an affidavit that will include documentation of income loss and/or other supporting information such as tax records. The affidavit will require additional acknowledgements and self-certification with penalties outlined for false information.

DNREC will make payments available to Delaware commercial fishermen and aquaculture operators who are commercially permitted/licensed during the COVID-19 impact period (1 March through 31 December 2020) that are deemed eligible by DNREC according to the above criteria. Eligibility and economic loss will be determined by comparing landings revenue values for the COVID-19 impact period (1 March through 31 December 2020 or any part thereof of 28 consecutive days or longer if the business did not operate for the entire impact period) with the average landings revenue value for March through 31 December of 2015-2019 or the years through 2019 that the applicant held the permit/license or lease. Eligibility is restricted to businesses that operated for at least one full year during 2015 through 2019. An applicant who received CARES Act fisheries relief funds may be eligible for CAPA funds if the applicant's request does not make the applicant 'more than whole' when combined with the amount of financial assistance received from CARES Act Section 12005, other programs in the CARES Act (e.g., Payment

Protection Program), and the applicant's traditional revenue stream for the year 2020.

For those applicants deemed eligible, payment amounts will be determined by pro-rating the number of years fished and the average revenue value of reported landings for 2015- 2019 or, for businesses in operation for less than the specified five years, the number of years that a business operated through 2019 (the business must have operated for at least one full year), as a weighted proportion of the total eligible applicant pool that will then be applied to the amount of award money available in this sector. For example: if the weighted proportion of an individual licensed commercial fisher was 0.0103, this would be multiplied by the total amount available within that sector (\$1,488,685) and the award amount would be \$15,333. The minimum value of relief distributed to a validated application will be \$100 even if the claim is determined to be less than \$100. Note that the demonstrated need may exceed the funds available for disbursement. After applicants have been verified, recipients will be notified of their relief award amount and given 30 calendar days to appeal. Appeals will not be accepted for applications received after the published application due date. If an applicant decides to appeal to DNREC their relief payment amount, they must submit any documentation or records that support the appeal and a written justification for appealing their award. Appealing the relief amount will also extend the amount of time required to receive relief funds, thus delaying eventual payment. Relief applicant appeals will be reviewed in a similar format as the original applications in addition to taking into consideration the supporting documentation and the written justification for the appeal. DNREC will attempt to render appeal decisions within 14 calendar days and all decisions rendered in the appeal process are final.

DNREC staff will use mandated records of commercial fishing and aquaculture activity to determine eligibility and guide disbursement of funds. DNREC commercial fishing and aquaculture records are required by law and regularly submitted in the ordinary course of business by licensed commercial operations potentially eligible for funding under this Program. It will be incumbent upon the applicant to supply all supporting documents upon application or when resolving an appeal.

DNREC will notify all applicants on the status of their claim, including eligibility status of the applicant and the claimed loss before any funds are issued to any eligible applicant. DNREC will attempt to process applications within 30 calendar days, but some applications may take longer to validate.

### ***Seafood Dealers and Processors - \$1,201,602***

To qualify for CAPA relief funding, seafood dealers and processors must meet all the following qualifications:

1. Was a permitted/licensed seafood dealer or processor in Delaware during the COVID-19 impact period defined herein as 1 March through 31 December 2020; and
2. Has maintained a business as a seafood dealer or processor for the five years before 2020 (those in business for less than five years are eligible if their business was active for a full year during 2015 through 2019) as evidenced by business records or recorded activity in the monthly wholesale seafood dealer reports with corresponding fishermen, vessels, or dealers;
3. Has suffered an economic loss greater than 35% from the previous 5-year average (2015-2019) or, if in business less than five years, average for the life of the business in revenue from 1 March through 31 December 2020 (applicants whose businesses only operated for a portion of the 1 March through 31 December period may also apply); and
4. Provides proof of economic loss to DNREC through a self-certification affidavit. DNREC will verify claims by comparing losses claimed by affidavit with the applicant's previous 5-year average revenue from 2015-2019 or, if in business less than five years, but at least one full year, average for the life of the business.

The application process will be open for at least 30 calendar days. Applications received after the published due date will not be reviewed or considered. The process will require applicants to provide supporting materials in the form of an affidavit that will include documentation of income loss and/or other supporting information such as tax records. The affidavit will require additional acknowledgements and self-certification with penalties outlined for false information.

DNREC will make payments available to Delaware seafood dealers and processors affected during the COVID-19 impact period (1 March through 31 December 2020) that are deemed eligible by DNREC according to the above criteria. Eligibility and economic loss will be determined by comparing revenues for the COVID-19 impact period (1 March through 31 December 2020 or any part thereof 28 consecutive days or longer if the business did not operate for the entire impact period) with the average revenues for 1 March through 31 December of 2015-2019 or the years through 2019 that the applicant was in operation. Eligibility is restricted to businesses that operated for at least one full year during 2015 through 2019. An applicant who received CARES Act fisheries relief funds may be eligible for CAPA funds if the applicant's request does not make the applicant 'more than whole' when combined with the amount of financial assistance received from CARES Act Section 12005, other programs in the CARES Act (e.g., Payment Protection Program), and the applicant's traditional revenue stream for the year 2020.

For those applicants deemed eligible, payment amounts will be determined by pro-rating the number of years in business and the average revenue of business for 2015- 2019 as a weighted proportion of the total eligible applicant pool that will then be applied to the amount of award money available in this sector. For example: if the weighted proportion of an individual seafood dealer or processor was 0.0103, this would be multiplied by total amount available within that sector (\$1,201,602) and the award amount would be \$12,376. The minimum value of relief distributed to a validated application will be \$100 even if the claim is determined to be less than \$100. Note that the demonstrated need may exceed the funds available for disbursement. After applicants have been verified, recipients will be notified of their relief award amount and given 30 calendar days to appeal. Appeals will not be accepted for applications received after the published application due date. If an applicant decides to appeal to DNREC their relief payment amount, they must submit any documentation or records that support the appeal and a written justification for appealing their award. Appealing the relief amount will also extend the amount of time required to receive relief funds, thus delaying eventual payment. Relief applicant appeals will be reviewed in a similar format as the original applications in addition to taking into consideration the supporting documentation and the written justification for the appeal. DNREC will attempt to render appeal decisions within 14 calendar days and all decisions rendered in the appeal process are final.

DNREC staff most familiar with commercial seafood dealers and processors will oversee the application process and DNREC's records relating to these businesses will be used to help determine eligibility and amounts of funds being disbursed. DNREC seafood dealer records are required by law and regularly submitted by licensed wholesale seafood dealers. It will be incumbent upon the applicant to supply all supporting documents upon application or when resolving an appeal.

DNREC will notify all applicants on the status of their claim, including eligibility status of the applicant and the claimed loss before any funds are issued to any eligible applicant. DNREC will attempt to process applications within 30 calendar days, but some applications may take longer to validate.

### ***Recreational For-Hire Fishing Operations and Bait and Tackle Shops - \$269,325***

To qualify for CAPA relief funding, recreational for-hire licensees (Resident Head Boat, Non-Resident Head Boat, Resident Charter Boat, Non-Resident Charter Boat, Resident Fish Guide, or Non-Resident Fish

Guide) and established bait and tackle shops must meet all the following applicable qualifications:

1. Was a permitted/licensed recreational for-hire individual or business in Delaware, herein defined as an individual or business possessing a Delaware Head Boat, Charter Boat, or Fishing Guide license, or an established bait and tackle shop, herein defined as a business that derives at least 75% of its total revenue from the sale of saltwater bait, tackle, and other saltwater fishing supplies used for recreational fishing purposes, during the COVID-19 impact period defined herein as 1 March through 31 December 2020; and
2. Has maintained a recreational for-hire fishing or bait and tackle shop business in Delaware for the five years before 2020 (those in business for less than five years are eligible if their business was active for a full year during 2015 through 2019) as evidenced for recreational for-hire fishing by license records or reported to NOAA Fisheries in the Vessel Trip Reports (VTR) or, for bait and tackle shops, revenue; and
3. Can demonstrate an economic loss greater than 35% from the previous 5-year average (2015-2019) for recreational for-hire fishing in revenue from recreational for-hire trips or, for bait and tackle shops, revenue; if in business less than five years, average for the life of the business through 2019 in revenue from 1 March through 31 December 2020 (applicants whose businesses only operated for a portion of the 1 March through 31 December period may also apply).
4. Proof of economic loss will be determined by DNREC for recreational for-hire fishing by comparing VTR records and associated revenue from recreational for-hire trips for the COVID-19 impact time period defined herein as 1 March through 31 December 2020 to the average revenue from trips from the previous 5 years, 2015-2019 or, if in business less than five years, but at least one full year, average revenue for the life of the business. For bait and tackle shops, revenue will be compared for the same time period.

The application process will be open for at least 30 calendar days. Applications received after the published due date will not be reviewed or considered. The process will require applicants to provide supporting materials in the form of an affidavit that will include documentation of income loss and/or other supporting information such as tax records. The affidavit will require additional acknowledgements and self-certification with penalties outlined for false information.

DNREC will make payments available to applicants who are licensed or in business during the COVID-19 impact period (1 March through 31 December 2020 or any part thereof) deemed eligible under the above criteria. DNREC will use VTR data to determine the average number of for-hire trips for 1 March through 31 December of 2015-2019 or, for those in business less than five years, the average number of for-hire trips from 1 March through 31 December for the years of business through 2019. Eligibility and economic loss for for-hire fishing businesses will be determined by comparing the number of VTR trips and associated revenue from recreational for-hire trips during the COVID-19 impact period (1 March through 31 December 2020 or any part thereof 28 consecutive days or longer if the business did not operate for the entire impact period) with the average number of VTR trips and associated revenue from recreational for-hire trips for 1 March through 31 December of 2015-2019 or the years through 2019 that the applicant was in operation. For bait and tackle shops, revenue will be compared for the same applicable time period. Eligibility is restricted to businesses that operated for at least one full year during 2015 through 2019. An applicant who received CARES Act fisheries relief funds may be eligible for CAPA funds if the applicant's request does not make the applicant 'more than whole' when combined with the amount of financial assistance received from CARES Act Section 12005, other programs in the CARES Act (e.g., Payment Protection Program), and the applicant's traditional revenue stream for the year 2020.

For those applicants deemed eligible, payment amounts will be determined for the recreational for-hire category by pro-rating the average revenue from for-hire trips for 2015- 2019 as a weighted proportion of the total eligible applicant pool that will then be applied to the amount of award money available in this

sector. For bait and tackle shops, payment amounts will be determined by pro-rating revenue for 2015-2019 as a weighted proportion of the total eligible applicant pool that will then be applied to the amount of award money available in this sector. For example: if the weighted proportion of a licensed recreational for-hire individual or business was 0.0103, this would be multiplied by total amount available within that sector (\$269,325) and the award amount would be \$2,744. The minimum value of relief distributed to a validated application will be \$100 even if the claim is determined to be less than \$100. Note that the demonstrated need may exceed the funds available for disbursement. After applicants have been verified, recipients will be notified of their relief award amount and given 30 calendar days to appeal. Appeals will not be accepted for applications received after the published application due date. If an applicant decides to appeal to DNREC their relief payment amount, they must submit any documentation or records that support the appeal and a written justification for appealing their award. Appealing the relief amount will also extend the amount of time required to receive relief funds, thus delaying eventual payment. Relief applicant appeals will be reviewed in a similar format as the original applications in addition to taking into consideration the supporting documentation and the written justification for the appeal. DNREC will attempt to render appeal decisions within 14 calendar days and all decisions rendered in the appeal process are final.

This Program is being administered by the DNREC staff who are most familiar with recreational for-hire fishing and bait and tackle shops and DNREC's related records which are being used to determine eligibility and amounts of funds being disbursed. It will be incumbent upon the applicant to supply all supporting documents upon application or when resolving an appeal.

DNREC will notify all applicants on the status of their claim, including eligibility status of the applicant and the claimed loss before any funds are issued to any eligible applicant. DNREC will attempt to process applications within 30 calendar days, but some applications may take longer to validate.

#### **Administrative Costs:**

To maximize direct assistance to stakeholders, DNREC will not retain administrative costs to offset costs to administer this Program.

#### **10% Holdback for Appeals: (\$295,961)**

Ten percent of the CAPA award money will be held initially back to cover appeals on a pro rata basis from the respective funding amounts indicated above. Any appeal funds not used will be distributed at the end of the program on a pro rata basis to the eligible applicants across all sectors so that all funds are exhausted and distributed to eligible stakeholders consistent with the requirement to not exceed the "more than whole" requirement described above.

#### **Expected Benefits and Evaluation of Program:**

The direct payments will provide some financial relief to these fishery businesses that suffered severe revenue loss due to the COVID-19 pandemic. The program will be deemed completed upon the successful distribution of all appropriated CAPA funds to qualified applicants.

#### **Geographic Location**

The location and scope of the project shall cover all Delaware fishing businesses who are eligible to



participate as outlined in this proposal. The project will be administered by DNREC, which is in Dover, DE.

### **Cost Summary**

Delaware was allocated \$2,959,612 in CAPA funds after removal of administrative fees by NOAA Fisheries (1.1%) and ASMFC (0.25%).

### **Project Timeline**

#### March 2021

- The Secretary of Commerce announced the allocation of an additional \$255 million in fisheries assistance funding provided by the Consolidated Appropriations Act of 2021. The funding will support activities previously authorized under Sec. 12005 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

#### April 2021

- Delaware notified of CAPA funding appropriation in the amount of \$2,959,612.

#### May - September 2021

- Background research and develop spending plan for CAPA relief money awarded to Delaware.
- DNREC administrative review and finalize spending plan.
- Submit spending plan to NOAA for review and approval.

#### October - December 2021

- Upon approval of spending plan by NOAA, DNREC open application period to eligible applicants for 45 calendar days and initiate evaluation and identification of individual applicant eligibility for relief funds as outlined in spending plan as the applications are received.
- DNREC provide written notification to applicants of eligibility for relief funds within the different fishery sectors within 14 calendar days of receiving an application.
- DNREC will process and evaluate applications and any appeals.
- DNREC will make payments to all qualified applicants and then seek reimbursement from ASMFC within 30 calendar days of the end of the application period..

### **References**

ASMFC (Atlantic States Marine Fisheries Commission). 2021. CARES Act Disaster Relief Resources. Available at: <http://www.asmfc.org/home/cares-act-resources>.

NOAA Fisheries (National Oceanic and Atmospheric Administration Fisheries). 2021. Additional Assistance Funding Under the Consolidated Appropriations Act of 2021. Available at: <https://www.fisheries.noaa.gov/national/funding-and-financial-services/additional-assistance-funding-under-consolidated>